

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

ANTONIO ANDRES GARCIA,  
#01052874

Petitioner,

v.

INDIGENT DEPT., TDCJ-CID,

Respondent.

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Case No. 6:24-cv-146-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Antonio Andres Garcia, a Texas Department of Criminal Justice prisoner proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to complain about this Court's handling of his previous civil rights lawsuit. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On April 25, 2024, the Magistrate Judge issued a Report recommending that the petition be denied, that this action be dismissed with prejudice as frivolous, and that a certificate of appealability be denied. Docket No. 5. Petitioner filed written objections. Docket No. 7.

This Court reviews the findings and conclusions of the Magistrate Judge de novo if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire

record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).


The Magistrate Judge recommends dismissal because Petitioner’s allegations of mishandling civil litigation do not implicate the validity of the fact or length of his incarceration and thus does not raise any viable claim under Section 2254. Petitioner’s objection questions the Magistrate Judge’s authority and generally complains of “unlawful” action by the Court. Docket No. 7. But he does not and cannot dispute that a writ of habeas corpus is an extraordinary remedy available to a prisoner “only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). This case does not raise such a claim. Accordingly, dismissal of this action as frivolous is appropriate.

Having conducted a de novo review of the Report and the record in this case, the Court has determined that the Report of the United States Magistrate Judge is correct, and Petitioner’s objections are without merit. The Court therefore **OVERRULES** Petitioner’s objections (Docket No. 7) and **ADOPTS** the Report and Recommendation of the Magistrate Judge (Docket No. 5) as the opinion of the District Court. Petitioner’s petition for habeas corpus is hereby **DISMISSED** with prejudice. Further, the Court **DENIES** a certificate of appealability. Any pending motions are **DENIED** as moot.

The Clerk is directed to refuse any further submissions from Petitioner in this action other than a notice of appeal and related motion to proceed *in forma pauperis*.

**So ordered and signed on this**

May 29, 2024

  
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JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE